

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-216753

DATE: October 3, 1985

MATTER OF: Eugene J. Maruschak - Transportation
Expenses Incurred to Obtain Meals While on
Temporary Duty

DIGEST:

Employee was authorized actual subsistence expenses to perform temporary duty in Washington, D.C. He incurred transportation expenses to obtain meals on various days and at distances ranging from 2 to 112 miles, roundtrip. Federal Travel Regulations (FTR) allow expenses of travel to obtain meals as part of actual subsistence expenses, but such expenses must be necessarily and prudently incurred and reasonable in nature. Where the expenses claimed appear largely unnecessary and unreasonable, and the employee failed to provide additional justification, the agency acted properly in denying the employee's claim.

This decision is in response to an appeal by Mr. Eugene J. Maruschak, an employee of the Internal Revenue Service (IRS), Department of the Treasury, from the settlement action by our Claims Group, dated July 1, 1982. The settlement sustained the determination by IRS that Mr. Maruschak is not entitled to reimbursement of transportation expenses incurred to obtain meals while on temporary duty. For the reasons stated hereafter, we affirm the settlement action by our Claims Group.

BACKGROUND

Mr. Maruschak was detailed from Philadelphia, Pennsylvania, to perform official duty at the IRS National Office in Washington, D.C., during the period June 22 through December 4, 1981. Reimbursement for his expenses on temporary duty was authorized on the actual subsistence expense basis at the maximum rate of \$75 per day. Mr. Maruschak was authorized to use his privately owned vehicle (POV) while performing his temporary duty

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assignment. Mr. Maruschak claimed reimbursement for travel in his POV, including mileage and parking expenses, to obtain lunches and dinners on 17 occasions. The round-trip distances driven to obtain the lunches and dinners were 7, 10, 23, 16, 10, 20, 6, 29, 27, 2, 112, 28, 28, 5, 8, 9, and 23 miles. The total claim for transportation expenses to obtain meals was \$76.32.

Mr. Maruschak's contention is that when reimbursement is on the actual subsistence expense basis, the expenses of transportation between places of lodging or business and places where meals are taken are allowable when claimed as part of subsistence, rather than as necessary transportation, provided the total amount claimed on the days the expenses were incurred does not exceed the applicable daily rate. He also states that only when travel to places where meals are obtained is claimed as necessary transportation, not as subsistence, is there a requirement for specific justification of expenses incurred. The claimant says that, since the total amount he spent for meals, transportation to obtain meals, and other miscellaneous expenses on a daily basis did not exceed 45 per cent of the maximum amount allowed for a high rate geographical area, such expenses should be accepted as being reasonable without further justification.

Mr. Maruschak contends, in summary, that reimbursement of the claimed expenses is allowed under the Federal Travel Regulations (FTR) and the IRS Travel Regulations and that the action by the IRS in disallowing his claim is arbitrary and capricious.

The position taken by IRS is that, taking into consideration the location where the temporary duty was performed, Washington, D.C, and the fact that Mr. Maruschak was able to obtain meals throughout the majority of the temporary duty assignment without incurring transportation expenses, the transportation expenses to obtain meals apparently were incurred as a personal choice and were not necessary to the detail. The IRS further states that Mr. Maruschak has failed to provide the agency with a statement explaining the necessity for driving to obtain meals.

OPINION

Under the provisions of section 5702(c) of Title 5, United States Code (1982), and the FTR, an agency is authorized to reimburse employees for the actual and necessary expenses of official travel where the employees

perform temporary duty at a high rate geographical area. Actual subsistence expense reimbursement in FTR para. 1-8.2b covers the same type of expenses, including meals, lodging, and transportation between places of lodging or business and places where meals are taken, as are normally covered by the per diem allowance provision in FTR para. 1-7.1b.

The FTR also provides that an employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. FTR para. 1-1.3a. Further, para. 1-1.3b of the FTR states that traveling expenses which will be reimbursed are confined to those expenses essential to transacting official business.

Paragraph 1-8.3b of the FTR outlines the responsibilities of an agency in authorizing and reimbursing actual subsistence expenses incurred by employees of the agency. In essence, those responsibilities are to establish necessary administrative arrangements for an appropriate review of the justification for travel on the actual subsistence expense basis and of the expenses claimed by a traveler. The stated purpose of the administrative arrangements is to assist the head of the agency or his designee in determining whether (1) the claimed expenses are allowable subsistence expenses, and (2) whether they were necessarily incurred in connection with the specific travel assignment. Thus, an agency determination as to the reasonableness of actual subsistence expenses is required.

Applying the above-stated law and regulations to Mr. Maruschak's claim, the employee's travel to obtain meals while performing temporary duty on the actual subsistence basis is an allowable subsistence expense. However, travel expenses to obtain meals must be necessarily and prudently incurred in connection with the temporary duty assignment and must be reasonable in nature. An employee is entitled to reimbursement only for reasonable expenses incurred incident to a temporary duty assignment since, as stated earlier, FTR para. 1-1.3a requires travelers to act prudently in incurring expenses.

Here, Mr. Maruschak's temporary duty site was Washington, D.C. While performing temporary duty in Washington, D.C., Mr. Maruschak stayed at the Oakwood Garden Apartments in Alexandria, Virginia, and at the Georgetown

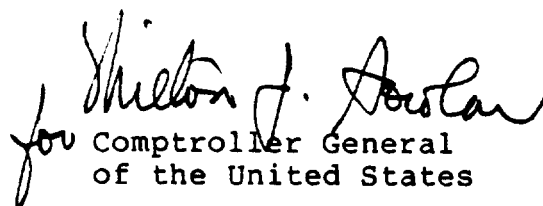
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Mews Apartments in Washington, D.C. There are numerous restaurants and eating facilities located in close proximity (within walking distance) of the Georgetown Mews Apartments at which Mr. Maruschak could have eaten his meals. Therefore, there was no apparent necessity for him to have incurred any expenses in traveling to obtain meals while staying at the Georgetown Mews. Some travel to obtain meals during the employee's stay at the Oakwood Garden Apartments may have been necessary. However, many of the distances involved appear to be excessive for this purpose.

As stated earlier, under the provisions of FTR para. 1-8.3b, IRS is required to determine whether actual subsistence expenses, including travel to obtain meals, were necessarily incurred and were reasonable. The IRS requested Mr. Maruschak to furnish information as to the necessity for his travel to obtain meals but he has not provided the agency with this information. In order for IRS to make the required determination, it is incumbent upon Mr. Maruschak to offer an explanation as to the necessity for and reasonableness of his travel to obtain meals.

CONCLUSION

Given the questionable nature of the expenses claimed here by Mr. Maruschak and his failure to provide more detailed justification when requested, we conclude that IRS did not act arbitrarily in denying his claim in full. Therefore, based on the record before us, the settlement action by our Claims Group dated July 1, 1982, is affirmed.


for Comptroller General
of the United States